



**RE: Meeting requested to discuss 12/20 letter in response to CAFO FOIA**

Karen Steuer to: Becky Mitschele, James, Carol

01/07/2013 03:10 PM

From: Karen Steuer <ksteuer@pewtrusts.org>

To: Becky Mitschele/DC/USEPA/US@EPA, "James, Carol" <cjames@nrdc.org>

History: This message has been replied to.

Thanks Becky – sorry for the delay in responding.

Yes, I can make it at 5:00 on the 10th.

Karen

From: Mitschele.Becky@epamail.epa.gov [  
mailto:Mitschele.Becky@epamail.epa.gov]

Sent: Monday, January 07, 2013 11:19 AM

To: James, Carol; Karen Steuer

Subject: RE: Meeting requested to discuss 12/20 letter in response to  
CAFO FOIA

Thanks so much, Carol! I need to make sure this works for Karen at  
Pew. If so, I will send out the meeting invite.

Karen, does this time (1/10, Thursday, 5 to 6 pm) work for you?

Thanks again!

Becky Mitschele

Water Permits Division, OWM

U.S. Environmental Protection Agency

Tel: 202.564.6418

▼ "James, Carol" ---01/07/2013 11:14:49 AM---Hi Becky - Both Jon and  
Claire can do this Thursday, January 10, 5:00pm-6:00pm Eastern Time.  
Let's

From: "James, Carol" <cjames@nrdc.org>

To: Becky Mitschele/DC/USEPA/US@EPA

Date: 01/07/2013 11:14 AM

Subject: RE: Meeting requested to discuss 12/20 letter in response to CAFO FOIA

Hi Becky – Both Jon and Claire can do this Thursday, January 10,  
5:00pm-6:00pm Eastern Time. Let's go with that. Will you be following up with  
a meeting request?

Thanks.

Carol

From: Mitschele.Becky@epamail.epa.gov [mailto:Mitschele.Becky@epamail.epa.gov]  
Sent: Monday, January 07, 2013 9:51 AM  
To: James, Carol  
Cc: Devine, Jon; Karen Steuer; Althouse, Claire  
Subject: Fw: Meeting requested to discuss 12/20 letter in response to CAFO FOIA

Hi Carol,

Thanks for helping me out with setting something up with Jon and Claire at NRDC to discuss the 12/20 letter in response to the CAFO FOIA.

I previously heard back from Karen with options, but I don't think that NRDC could meet this afternoon so let's try to set something up a bit later in the month. Deborah is open the following times:

1/8 from 5 to 6 pm EST  
1/10 from 5 pm to 6 pm EST  
1/22 from 10 am to 11 am; 2 to 3 pm, or anywhere from 4 to 6 pm.

Could you give me some options so that I can make sure that Karen is available as well since she was not on the first call?

We would like an hour; however, because there are multiple people's schedules, if we have only a 30 min block, we can still have a productive but short call.

Thanks for your help!

Thanks,  
Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418

----- Forwarded by Becky Mitschele/DC/USEPA/US on 01/07/2013 09:44 AM -----

From: Becky Mitschele/DC/USEPA/US  
To: Karen Steuer <ksteuer@pewtrusts.org>  
Cc: "Devine, Jon" <jdevine@nrdc.org>  
Date: 12/31/2012 10:08 AM  
Subject: RE: Meeting requested to discuss 12/20 letter in response to CAFO FOIA

---

Thanks, Karen!

I don't think Jon is in until the 2nd so I will check with him then to see if one of those times also works for him.

Happy New Year!

Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency

Tel: 202.564.6418

▼ Karen Steuer ---12/31/2012 10:01:12 AM---Hi Becky, Thanks for getting back to us so quickly. I'm available after 5 on 1/3, and all afternoon

From: Karen Steuer <ksteuer@pewtrusts.org>  
To: Becky Mitschele/DC/USEPA/US@EPA, "Devine, Jon" <jdevine@nrdc.org>  
Date: 12/31/2012 10:01 AM  
Subject: RE: Meeting requested to discuss 12/20 letter in response to CAFO FOIA

---

Hi Becky,

Thanks for getting back to us so quickly. I'm available after 5 on 1/3, and all afternoon on the 7th.

Karen

Karen Steuer  
Director, Government Relations  
Pew Environment Group  
901 E St. NW  
Washington, D.C. 20005  
(202)887-8818

From: Mitschele.Becky@epamail.epa.gov  
[Mitschele.Becky@epamail.epa.gov]  
Sent: Friday, December 28, 2012 1:42 PM  
To: Devine, Jon; Karen Steuer  
Subject: Meeting requested to discuss 12/20 letter in response to CAFO FOIA

Hi Jon and Karen,


I would like to set up another quick conference call to discuss the CAFO FOIA. In addition to myself and George Utting, Rural Branch Acting Chief, Deborah Nagle, our Division Director, will be on the call. We would like to discuss the site-specific CAFO records on this call.

Is there a good time that works for both of you? Deborah currently has open the following times:

1/2/13 after 3 pm EST  
1/3/13 After 5 pm  
1/7 or 1/9 after 3 pm

Thanks,  
Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency



**RE: Meeting requested to discuss 12/20 letter in response to CAFO FOIA** 

Becky Mitschele to: Karen Steuer

12/31/2012 10:08 AM

Cc: "Devine, Jon"

From: Becky Mitschele/DC/USEPA/US  
To: Karen Steuer <ksteuer@pewtrusts.org>  
Cc: "Devine, Jon" <jdevine@nrdc.org>

---

Thanks, Karen!

I don't think Jon is in until the 2nd so I will check with him then to see if one of those times also works for him.

Happy New Year!

Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418

Karen Steuer

Hi Becky, Thanks for getting back to us so quickl...

12/31/2012 10:01:12 AM

From: Karen Steuer <ksteuer@pewtrusts.org>  
To: Becky Mitschele/DC/USEPA/US@EPA, "Devine, Jon" <jdevine@nrdc.org>  
Date: 12/31/2012 10:01 AM  
Subject: RE: Meeting requested to discuss 12/20 letter in response to CAFO FOIA

---

Hi Becky,

Thanks for getting back to us so quickly. I'm available after 5 on 1/3, and all afternoon on the 7th.

Karen

*Karen Steuer*

Director, Government Relations  
Pew Environment Group  
901 E St. NW  
Washington, D.C. 20005  
(202)887-8818

**From:** Mitschele.Becky@epamail.epa.gov [Mitschele.Becky@epamail.epa.gov]  
**Sent:** Friday, December 28, 2012 1:42 PM  
**To:** Devine, Jon; Karen Steuer  
**Subject:** Meeting requested to discuss 12/20 letter in response to CAFO FOIA

Hi Jon and Karen,

I would like to set up another quick conference call to discuss the CAFO FOIA. In addition to myself and George Utting, Rural Branch Acting Chief, Deborah Nagle, our Division Director, will be on the call. We would like to discuss the site-specific CAFO records on this call.

Is there a good time that works for both of you? Deborah currently has open the following times:



1/2/13 after 3 pm EST  
1/3/13 After 5 pm  
1/7 or 1/9 after 3 pm

Thanks,  
Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418



**RE: Meeting requested to discuss 12/20 letter in response to CAFO FOIA**

Karen Steuer to: Becky Mitschele, Devine, Jon

12/31/2012 10:01 AM

From: Karen Steuer <ksteuer@pewtrusts.org>  
To: Becky Mitschele/DC/USEPA/US@EPA, "Devine, Jon" <jdevine@nrdc.org>  
History: This message has been replied to.

---

Hi Becky,

Thanks for getting back to us so quickly. I'm available after 5 on 1/3, and all afternoon on the 7th.

Karen

Karen Steuer  
Director, Government Relations  
Pew Environment Group  
901 E St. NW  
Washington, D.C. 20005  
(202)887-8818

From: Mitschele.Becky@epamail.epa.gov  
[Mitschele.Becky@epamail.epa.gov]  
Sent: Friday, December 28, 2012 1:42 PM  
To: Devine, Jon; Karen Steuer  
Subject: Meeting requested to discuss 12/20 letter in response to CAFO FOIA

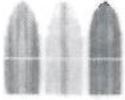
Hi Jon and Karen,

I would like to set up another quick conference call to discuss the CAFO FOIA. In addition to myself and George Utting, Rural Branch Acting Chief, Deborah Nagle, our Division Director, will be on the call. We would like to discuss the site-specific CAFO records on this call.

Is there a good time that works for both of you? Deborah currently has open the following times:

1/2/13 after 3 pm EST  
1/3/13 After 5 pm  
1/7 or 1/9 after 3 pm

Thanks,  
Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418



**RE: draft email to states re FOIAs on data**   
Becky Mitschele to: Sean Rolland

02/07/2013 05:40 PM

From: Becky Mitschele/DC/USEPA/US  
To: "Sean Rolland" <srolland@acwa-us.org>

Thanks! Will send out the email shortly.

Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418

Cc: Wiedeman.Allison@epamail.epa.gov; Sean Rolland  
Subject: RE: draft email to states re FOIAs on data

Hi Alex,

I'm going to send out the email on behalf of Allison.

I was wondering who you meant by Regional Contacts below - is it only the EPA Regional Contacts or is it EPA Regional Contacts as well as the staff we spoke to at the state permitting authority?

The sample email is written for a state audience and may need to be adjusted if it is intended that I send it out only to EPA and ACWA.

Thanks  
Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418

▼ "Alexandra Dunn" ---02/07/2013 04:10:32 PM---We'll await seeing it.

From: "Alexandra Dunn" <adunn@acwa-us.org>  
To: Allison Wiedeman/DC/USEPA/US@EPA  
Cc: Becky Mitschele/DC/USEPA/US@EPA, "Sean Rolland" <srolland@acwa-us.org>  
Date: 02/07/2013 04:10 PM  
Subject: RE: draft email to states re FOIAs on data

---

We'll await seeing it.

Alexandra Dapolito Dunn, Esq.  
Executive Director & General Counsel  
Association of Clean Water Administrators--"The Voice of States & Interstates"  
1221 Connecticut Ave. , NW, 2d Floor  
Washington, DC 20036  
202-756-0600 (T); 202-230-4247 (C); 202-756-0605 (F)  
adunn@acwa-us.org; www.acwa-us.org  
Save The Date: ACWA's Mid Year Meeting Feb 24 -26, 2013, The Westin Hotel,  
National Harbor, MD  
And ACWA's 52nd Annual Meeting, The Lodge at Santa Fe, August 5 - 7, 2013  
Santa Fe, NM

From: Wiedeman.Allison@epamail.epa.gov [  
mailto:Wiedeman.Allison@epamail.epa.gov]  
Sent: Thursday, February 07, 2013 3:14 PM  
To: Alexandra Dunn  
Cc: Mitschele.Becky@epamail.epa.gov; Sean Rolland



Subject: RE: draft email to states re FOIAs on data

Thanks Alex.

Allison Wiedeman, Chief  
Rural Branch  
Office of Wastewater Management  
US EPA  
202-564-0901

▼ "Alexandra Dunn" ---02/07/2013 11:06:41 AM---We've just talked and we have no comments other than changing Hello to Dear....

From: "Alexandra Dunn" <adunn@acwa-us.org>  
To: Allison Wiedeman/DC/USEPA/US@EPA, "Sean Rolland" <srolland@acwa-us.org>  
Cc: Becky Mitschele/DC/USEPA/US@EPA  
Date: 02/07/2013 11:06 AM  
Subject: RE: draft email to states re FOIAs on data

---

We've just talked and we have no comments other than changing Hello to Dear....

In terms of distribution, we recommend you send to the Regional Contacts with a cc: to us at ACWA and we will then immediately fwd to our Rural Branch Workgroup and Primary State Member Contacts.

Alexandra Dapolito Dunn, Esq.  
Executive Director & General Counsel  
Association of Clean Water Administrators--"The Voice of States & Interstates"  
1221 Connecticut Ave. , NW, 2d Floor  
Washington, DC 20036  
202-756-0600 (T); 202-230-4247 (C); 202-756-0605 (F)  
adunn@acwa-us.org; www.acwa-us.org  
Save The Date: ACWA's Mid Year Meeting Feb 24 -26, 2013, The Westin Hotel,  
National Harbor, MD  
And ACWA's 52nd Annual Meeting, The Lodge at Santa Fe, August 5 - 7, 2013  
Santa Fe, NM

From: Wiedeman.Allison@epamail.epa.gov [mailto:Wiedeman.Allison@epamail.epa.gov]  
Sent: Thursday, February 07, 2013 8:04 AM  
To: Sean Rolland; Alexandra Dunn  
Cc: Mitschele.Becky@epamail.epa.gov  
Subject: draft email to states re FOIAs on data

Sean and Alex - please see draft email below. any comments by noon would be appreciated. thanks

Hello State Permitting Authority

## Yager, Scott

---

**From:** Wiedeman, Allison  
**Sent:** Thursday, February 07, 2013 8:04 AM  
**To:** Sean Rolland; Alexandra Dunn  
**Cc:** Mitschele, Becky  
**Subject:** draft email to states re FOIAs on data

Sean and Alex - please see draft email below. any comments by noon would be appreciated. thanks

Hello State Permitting Authority

I wanted to make you aware of two separate Freedom of Information Act (FOIA) requests to EPA, both of which asked for all records relating to EPA's effort to collect CAFO data. One was from EarthJustice and the other was submitted by the Natural Resources Defense Council and Pew Charitable Trust. As indicated during our state conference calls, state information shared with EPA is subject to FOIA requirements.

Working with our Office of General Counsel, we determined what records we were legally required to provide, and these records included information provided to EPA from states. On Monday, EPA sent the requesters a CD with responsive and releasable documents that included the information states have provided regarding the data collection effort. We have provided the data in the format provided by the state. We did not share any state data that EPA has processed (i.e. removing duplicates, converting coordinate systems, etc.).

Along with other federal agencies, EPA now manages FOIA requests through FOIAonline. FOIAonline is a public website that tracks and stores information responsive to a request. It's the Agency's policy to upload records to FOIAonline. While publically available, a user would need to search through all FOIA requests to EPA with a keyword or have the ID number for the FOIA to review the responsive and releasable documents. Once EPA closes out the FOIA request in the next few weeks, the information we provided under these FOIAs will be available at:

<https://foiaonline.regulations.gov/foia/action/public/view/request?objectId=090004d28001613d>

If you have additional questions, you can email or call Becky Mitschele, of my staff, at either 202-564-6418 or [mitschele.becky@epa.gov](mailto:mitschele.becky@epa.gov). We can also discuss these FOIAs during the Rural Branch workgroup call hosted by the Association of Clean Water Administrators.

Allison Wiedeman, Chief  
Rural Branch  
Office of Wastewater Management  
US EPA  
202-564-0901

## Mitschele, Becky

---

**From:** Taglang, Steven W [staglang@pa.gov]  
**Sent:** Monday, February 25, 2013 5:47 PM  
**To:** Mitschele, Becky; WIEDEMAN, ALLISON  
**Cc:** Hill, Randy; Rider, Glenn  
**Subject:** RE: EPA releases producer info

Thanks!

Steven Wm. Taglang | Env. Program Manager Bureau of Conservation & Restoration Department of Environmental Protection Rachel Carson State Office Building  
400 Market Street | Harrisburg, PA 17105-8555  
Phone: (717) 783-7577 | Fax: (717) 787-9549 [www.depweb.state.pa.us](http://www.depweb.state.pa.us)

-----Original Message-----

**From:** Mitschele, Becky [<mailto:Mitschele.Becky@epa.gov>]  
**Sent:** Monday, February 25, 2013 4:29 PM  
**To:** Taglang, Steven W; WIEDEMAN, ALLISON  
**Cc:** Hill, Randy; Rider, Glenn  
**Subject:** RE: EPA releases producer info

Hi Steve,

Sorry in my delayed response. The information that was released was the attachment that you emailed me on 9/14/2012 (3:13 pm).

Here is the email:

**From:** "Taglang, Steven W" <[staglang@pa.gov](mailto:staglang@pa.gov)>  
**To:** Becky Mitschele/DC/USEPA/US@EPA  
**Cc:** Scott Yager/DC/USEPA/US@EPA  
**Date:** 09/14/2012 03:13 PM  
**Subject:** RE: Followup to the 8/24 PA CAFO call

This is the spreadsheet we sent to Region 3 in March to meet our Section 106 reporting requirements. Next report will be generated this month.

Will work with the appropriate staff up here next week to fill in the table.

The 1,700 operations are not necessarily small - they represent the operations that are required to prepare nutrient management plans to meet Pennsylvania nutrient management regulations. Most are sizable operations for Pennsylvania. There are another 30,000 - to 60,000 farm operations in PA that do not meet the threshold for nutrient management regulations, so these 1,700 or so are pretty big to us.

Steven Wm. Taglang | Env. Program Manager Bureau of Conservation & Restoration Department of Environmental Protection Rachel Carson State Office Building  
400 Market Street | Harrisburg, PA 17105-8555  
Phone: (717) 783-7577 | Fax: (717) 787-9549 [www.depweb.state.pa.us](http://www.depweb.state.pa.us)



I wanted to make you aware of two separate Freedom of Information Act (FOIA) requests to EPA, both of which asked for all records relating to EPA's effort to collect CAFO data. One was from EarthJustice and the other was submitted by the Natural Resources Defense Council and Pew Charitable Trust. As indicated during our state conference calls, state information shared with EPA is subject to FOIA requirements.

Working with our Office of General Counsel, we determined what records we were legally required to provide, and these records included information provided to EPA from states. On Monday, EPA sent the requesters a CD with responsive and releasable documents that included the information states have provided regarding the data collection effort. We have provided the data in the format provided by the state. We did not share any state data that EPA has processed (i.e. removing duplicates, converting coordinate systems, etc.).

Along with other federal agencies, EPA now manages FOIA requests through FOIAonline. FOIAonline is a public website that tracks and stores information responsive to a request. It's the Agency's policy to upload records to FOIAonline. While publically available, a user would need to search through all FOIA requests to EPA with a keyword or have the ID number for the FOIA to review the responsive and releasable documents. Once EPA closes out the FOIA request in the next few weeks, the information we provided under these FOIAs will be available at:

<https://foiaonline.regulations.gov/foia/action/public/view/request?objectId=090004d28001613d>

If you have additional questions, you can email or call Becky Mitschele, of my staff, at either 202-564-6418 or [mitschele.becky@epa.gov](mailto:mitschele.becky@epa.gov). We can also discuss these FOIAs during the Rural Branch workgroup call hosted by the Association of Clean Water Administrators.

Allison Wiedeman, Chief  
Rural Branch  
Office of Wastewater Management  
US EPA  
202-564-0901



## Mitschele, Becky

---

**From:** Althouse, Claire [calthouse@nrdc.org]  
**Sent:** Tuesday, January 29, 2013 1:12 PM  
**To:** Kupchan, Simma; Devine, Jon; jjanovsky@pewtrusts.org; ksteuer@pewtrusts.org  
**Cc:** Mitschele, Becky; Utting, George; Yager, Scott; nkeller@pewtrusts.org  
**Subject:** RE: Follow up to FOIA extension response

Ms. Kupchan,

Thank you for your message regarding NRDC and Pew's FOIA request. We look forward to receiving records responsive to our request for data about individual CAFOs at the end of the week.

We have reviewed your note regarding the agency's email records responsive to our request. Without agreeing that any of the responsive records are privileged, we are willing to deem EPA's production of email records to be complete if the following conditions are met:

1. EPA asks its principal staff involved in developing the reporting rule or its withdrawal if they can recall any emails regarding the reporting rule submitted to EPA by: The American Farm Bureau Federation, The National Pork Producers Council, The National Cattlemen's Beef Association, The United Egg Producers, The U.S. Poultry & Egg Association, The National Council of Farmer Cooperatives, The National Milk Producers Federation, The National Chicken Council, the National Turkey Federation, The National Corn Growers Association, or any other agricultural trade association.
2. EPA asks its principal staff involved in developing the reporting rule or its withdrawal if they can recall any emails exchanged with non-governmental organizations or individuals (such as agricultural industry representatives) or state personnel regarding:
  - The completeness, accuracy, or accessibility of state files, or
  - Individual facilities.
3. If there are emails fitting the description in 1 or 2, above, EPA produces any such emails.

We are willing to extend a reasonable period of time for EPA to gather the above email records.

Sincerely,

Karen Steuer  
Jon Devine

---

**From:** Kupchan.Simma@epamail.epa.gov [Kupchan.Simma@epamail.epa.gov]  
**Sent:** Monday, January 28, 2013 3:47 PM  
**To:** Althouse, Claire; Devine, Jon; jjanovsky@pewtrusts.org; ksteuer@pewtrusts.org  
**Cc:** Mitschele.Bekky@epamail.epa.gov; Utting.George@epamail.epa.gov; Yager.Scott@epamail.epa.gov  
**Subject:** Follow up to FOIA extension response

Dear Ms. Althouse, Mr. Devine, Ms. Janovsky, and Ms. Steuer,

Thank you for considering our request for an extension to provide the documents responsive to your FOIA request.. In our interim response dated December 18, 2012, we provided you with copies of the documents that respond to items I(1) and (2) in your request, and we will supplement those with all records that respond to item I(3) by this Thursday, Jan. 31, 2013. To be clear, that supplemental response will include all data we received from states related to their CAFO information.



I am writing to address two other types of records that your request seeks - all records related to the withdrawal of the proposed CAFO Reporting Rule and email records related to request I(2). When we spoke on the phone, we focused on the timing of transmission of the information that we view of value, i.e., information about individual CAFOs, that we neglected to focus on these two types of records. We therefore failed to explain the practical difficulties of providing this information by the current deadline. We apologize for this oversight.

We hope find out whether you are seeking any information in this broad introductory paragraph that you would not receive in our responses to the specific items #1,2, and 3 listed below it. All of the releasable documents responsive to this request are already available in the docket -- any other documents are deliberative and possibly attorney client privileged. Nonsubstantive emails or meeting requests may also be responsive to this request and releasable. Substantive emails, aside from those containing materials you have already received, would largely be privileged as deliberative.

We cannot think of any useful information that an index of deliberative documents and a small number of emails would provide to you. This request would, however, require a search of scores of Agency email accounts, including those of senior managers who have retired and staff members who have moved on, and yield tens of thousands of emails that would require review. The overwhelming majority of this burden would fall on our CAFO Reporting Rule staff person, Becky Mitschele, who is also the person conducting the CAFO information collection with states and compilation project. Based on discussions with other FOIA responders, she currently estimates that rounding up and processing all of these emails would take approximately three weeks of full time effort.

The second category of records that your request seeks, which we have not yet produced and would also consume significant Agency resources, is emails and a log of privileged records relating to factual information concerning the completeness, accuracy, and public accessibility of states' CAFO information in certain specified areas (item I(2)). Fewer people have been involved in discussions on this subject, so providing emails and a privilege log in response to this item would be less burdensome than responding to the introductory paragraph discussed above. Yet providing emails and a log of privileged documents in response to this item would still entail a significant burden.

We wanted to make sure that you felt that the resources these responses would consume here at EPA were warranted. Again, we are not sure how the information we would release, that we have not already released, will benefit you.

We are hopeful that the materials we have provided, and that we intend to provide by the end of the week, will convey all that you think you need to know, and that you might deem our providing of all documents in response to items I(1), (2), and (3) sufficient to satisfy the purpose of your FOIA request. If you do think that emails and a privilege log responsive to the introductory paragraph and item I(2) are still necessary, we respectfully request an extension of three weeks in which to provide you with this information. It would not be possible for us to provide you with this information by the current deadline of January 31, 2013.

I personally apologize for failing to have raised these issues sooner, on our earlier call.

I hope that the fact that you will be receiving what we all believe are the documents most important to you by the end of this week will incline you to acknowledge our practical concerns with the FOIA response.

Thank you for your attention. We would be grateful if you could respond as soon as possible.

Simma A. Kupchan  
Water Law Office  
EPA Office of General Counsel  
Ariel Rios North, Room 7313A  
(202) 564-3105

From: "Althouse, Claire" <calthouse@nrdc.org>

To: Becky Mitschele/DC/USEPA/US@EPA

Cc: "Devine, Jon" <jdevine@nrdc.org>, Julie Janovsky <jjanovsky@pewtrusts.org>, "ksteuer@pewtrusts.org" <ksteuer@pewtrusts.org>

Date: 01/25/2013 11:41 AM

Subject: FOIA: Pew and NRDC response

---

Dear Ms. Mitschele,

Attached please find Pew and NRDC's response to your Jan. 10, 2013, request for additional time to respond to our FOIA request.

Sincerely,  
Claire Althouse

--

Claire Althouse  
Policy Analyst • Water Program  
Natural Resources Defense Council  
1314 Second Street  
Santa Monica, CA 90401  
T: (310) 434-2300  
F: (310) 434-2399

P Please consider the environment before printing this email.

(See attached file: PewNRDC Response to request for more time 1-25-13.pdf)



**FOIA: Pew and NRDC response**

Althouse, Claire to: Becky Mitschele

Cc: "Devine, Jon", Julie Janovsky, "ksteuer@pewtrusts.org"

01/25/2013 11:41 AM

From: "Althouse, Claire" <calthouse@nrdc.org>  
To: Becky Mitschele/DC/USEPA/US@EPA  
Cc: "Devine, Jon" <jdevine@nrdc.org>, Julie Janovsky <jjanovsky@pewtrusts.org>, "ksteuer@pewtrusts.org" <ksteuer@pewtrusts.org>

History: This message has been forwarded.


Dear Ms. Mitschele,

Attached please find Pew and NRDC's response to your Jan. 10, 2013, request for additional time to respond to our FOIA request.

Sincerely,  
Claire Althouse

--

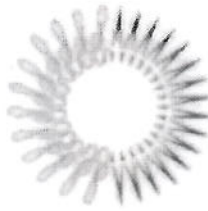
Claire Althouse  
Policy Analyst • Water Program  
Natural Resources Defense Council  
1314 Second Street  
Santa Monica, CA 90401  
T: (310) 434-2300  
F: (310) 434-2399

 Please consider the environment before printing this email



PewNRDC Response to request for more time 1-25-13.pdf





THE  
**PEW**  
CHARITABLE TRUSTS

January 25, 2013

*Via Electronic Mail*

Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
[Mitschele.Becky@epa.gov](mailto:Mitschele.Becky@epa.gov)

Dear Ms. Mitschele,

This letter is in response to the Environmental Protection Agency's (EPA) January 10, 2013 request to extend the deadline for responding to the Natural Resources Defense Council (NRDC) and Pew Environment Group (Pew)'s October 24, 2013 request for documents under the Freedom of Information Act (FOIA).<sup>1</sup> NRDC and Pew have already granted EPA a 5-week extension<sup>2</sup> of FOIA's deadline for response.<sup>3</sup> After considering your request, NRDC and Pew decline to further extend the deadline. We request that you promptly provide all documents that are responsive to the original FOIA request.

EPA's stated reason for requesting additional time is not compelling. EPA does not seek a delay because, despite its best efforts, it was not able to meet the deadlines set forth in FOIA. Instead, EPA seeks additional time because it would prefer not to release documents at this time. We do not agree with EPA's justification, and we must now insist that the agency produce the records without further delay, as FOIA requires.

Sincerely,

**Jon P. Devine, Jr.**  
Senior Attorney  
Natural Resources Defense Council

**Karen Steuer**  
Director, Government Relations  
Pew Environment Group

<sup>1</sup> Letter from Jon Devine and Karen Steuer to the Environmental Protection Agency, Oct. 24, 2012.

<sup>2</sup> Letter from Jon Devine and Karen Steuer to Becky Mitschele, Dec. 21, 2012.

<sup>3</sup> 5 U.S.C. § 552(a)(6); 40 C.F.R. 2.104.

## Mitschele, Becky

---

**From:** Althouse, Claire [calthouse@nrdc.org]  
**Sent:** Tuesday, January 22, 2013 12:42 PM  
**To:** Mitschele, Becky  
**Cc:** Utting, George; Devine, Jon; ksteuer@pewtrusts.org; Simma Kupchan; Scott Yager; Julie Janovsky  
**Subject:** RE: Conference call this afternoon  
**Attachments:** image001.gif

Good morning Becky,

Thanks for checking in. We are still considering the request. You can expect a response from us tomorrow.

Best,  
Claire

---

**From:** Mitschele.Becky@epamail.epa.gov [mailto:Mitschele.Becky@epamail.epa.gov]  
**Sent:** Tuesday, January 22, 2013 9:37 AM  
**To:** Althouse, Claire  
**Cc:** Utting.George@epamail.epa.gov; Devine, Jon; ksteuer@pewtrusts.org; Kupchan.Simma@epamail.epa.gov; Yager.Scott@epamail.epa.gov  
**Subject:** Fw: Conference call this afternoon

Claire,

In followup to my vociemail last week, I wanted to inquire about where we left off from the 1/10 conference call where NRDC/Pew met with Deborah Nagle, our Permits Division Director.

Have you given additional consideration to our request for 2 additional months for the information related to state cafo data?

Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418

----- Forwarded by Becky Mitschele/DC/USEPA/US on 01/22/2013 12:33 PM -----

**From:** Becky Mitschele/DC/USEPA/US  
**To:** "Althouse, Claire" <calthouse@nrdc.org>  
**Date:** 01/10/2013 04:49 PM  
**Subject:** Re: Conference call this afternoon

---

Yes. Thanks for confirming. We will open the conference line at 5:30 pm EST. The call information is 1-866-299-3188 and the code is 202-564-6418.

Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418

▼ "Althouse, Claire" ---01/10/2013 03:46:19 PM---Hello Becky, I just wanted to confirm that we are planning to discuss

our FOIA request this afternoo

From: "Althouse, Claire" <[calthouse@nrdc.org](mailto:calthouse@nrdc.org)>  
To: Becky Mitschele/DC/USEPA/US@EPA  
Date: 01/10/2013 03:46 PM  
Subject: Conference call this afternoon

---


Hello Becky,

I just wanted to confirm that we are planning to discuss our FOIA request this afternoon at 5:30 your time. I saw the updated calendar request, so I wanted to make sure we are all on the same page.

Thank you,  
Claire

--

**Claire Althouse**  
Policy Analyst • Water Program  
Natural Resources Defense Council  
1314 Second Street  
Santa Monica, CA 90401  
T: (310) 434-2300  
F: (310) 434-2399

 Please consider the environment before printing this email.



**From:** Hill.Randy@epamail.epa.gov [mailto:Hill.Randy@epamail.epa.gov]

**Sent:** Friday, February 08, 2013 4:42 PM

**To:** Hulcher, Richard; rp4@azdeq.gov; SHAFII@adeq.state.ar.us; phyllis.woodford@state.co.us; brian.churchill@state.de.us; allen.hubbard@dep.state.fl.us; tom.hopkins@dnr.state.ga.us; Sanjay.Sofat@Illinois.gov; DLASITER@idem.IN.gov; Gene.Tinker@dnr.iowa.gov; Tmedley@kdheks.gov; jory.becker@ky.gov; Mitch.Mitchell@LA.GOV; Kimberly.Corts@LA.GOV; Bill.J.Sheehan@maine.gov; mark.hedrich@maine.gov; halhija@mde.state.md.us; gkelman@mde.state.md.us; bitondom@michigan.gov; lisa.scheirer@state.mn.us; Tracy\_Tomkins@deq.state.ms.us; Melanie\_Morris@deq.state.ms.us; darrick.steen@dnr.mo.gov; JChambers@mt.gov; dennis.heitmann@nebraska.gov; CLAWSON@ndep.nv.gov; drashlin@gw.dec.state.ny.us; keith.larick@ncdenr.gov; krockema@nd.gov; Cathy.Alexander@epa.state.oh.us; jon.bernstein@epa.state.oh.us; cdevore@oda.state.or.us; staglang@pa.gov; chapliwp@dhec.sc.gov; Kent.Woodmansey@state.sd.us; Erin.O'Brien@tn.gov; saya.qualls@tn.gov; janet.wyman@tceq.texas.gov; dghall@utah.gov; evanvleet@utah.gov; Marli.Rupe@state.vt.us; bkbowles@deq.virginia.gov; joje461@ECY.WA.GOV; NMena@agr.wa.gov; Amy.Callis@wisconsin.gov; Thomas.Bauman@Wisconsin.gov; bill.dirienzo@wyo.gov

**Cc:** Perkins.Stephen@epamail.epa.gov; Matthews.Joan@epamail.epa.gov; Capacasa.Jon@epamail.epa.gov; Giattina.Jim@epamail.epa.gov; Hyde.Tinka@epamail.epa.gov; Honker.William@epamail.epa.gov; Flournoy.Karen@epamail.epa.gov; Garcia.Bert@epamail.epa.gov; Hoskie.Sadie@epamail.epa.gov; Kemmerer.John@epamail.epa.gov; Opalski.Dan@epamail.epa.gov; Coats.Andrea@epamail.epa.gov; Frawley.Austine@epamail.epa.gov; Zolandz.Mark@epamail.epa.gov; Zieba.Kyle@epamail.epa.gov; Toy.Ashley@epamail.epa.gov; Sampath.Sam@epamail.epa.gov; Socha.Julianne@epamail.epa.gov; Juarez.Paul@epamail.epa.gov; Stine.Scott@epamail.epa.gov; Porter.Donna@epamail.epa.gov; Clark.Amy@epamail.epa.gov; Draper.Seth@epamail.epa.gov; Whitson.Amelia@epamail.epa.gov; Peak.Nicholas@epamail.epa.gov; Nagle.Deborah@epamail.epa.gov; Wiedeman.Allison@epamail.epa.gov; Mitschele.Becky@epamail.epa.gov; Yager.Scott@epamail.epa.gov; Alexandra.Dunn; srolland@acwa-us.org; Stoner.Nancy@epamail.epa.gov; Gilinsky.Ellen@epamail.epa.gov

**Subject:** EPA received FOIA request for all records related to the CAFO data collection effort and the withdrawal of the CAFO Reporting Rule

Dear State NPDES Permitting Manager,

I wanted to make you aware of two separate Freedom of Information Act (FOIA) requests to EPA, both of which asked for all records relating to EPA's effort to collect CAFO data. One was from EarthJustice and the other was submitted by the Natural Resources Defense Council and Pew Charitable Trust. As indicated during our state conference calls, state information shared with EPA is subject to FOIA requirements.

Working with our Office of General Counsel, we determined what records we were legally required to provide, and these records included information provided to EPA from states. On Monday, EPA sent the requesters a CD with responsive and releasable documents that included the information states have provided regarding the data collection effort. We have provided the data in the format provided by the state. We did not share any state data that EPA has processed (i.e. removing duplicates, converting coordinate systems, etc.).

Along with other federal agencies, EPA now manages FOIA requests through FOIAonline. FOIAonline is a public website that tracks and stores information responsive to a request. It's the Agency's policy to upload records to FOIAonline. While publically available, a user would need to search through all FOIA requests to EPA with a keyword or have the ID number for the FOIA to review the responsive and releasable documents. Once EPA closes out the FOIA request in the next few weeks, the information we provided under these FOIAs will be available at:

<https://foiaonline.regulations.gov/foia/action/public/view/request?objectId=090004d28001613d>

We will be reaching out to our agricultural stakeholders, so would appreciate if you would wait until Monday afternoon before you reach out to your own stakeholders.

If you have additional questions, you can contact Allison Wiedeman, Rural Branch Chief, either at [wiedeman.allison@epa.gov](mailto:wiedeman.allison@epa.gov) or (202) 564-3105, or call Becky Mitschele, of my staff, at either (202) 564-6418 or [mitschele.becky@epa.gov](mailto:mitschele.becky@epa.gov). We also can discuss these FOIAs during the Rural Branch workgroup call hosted by the Association of Clean Water Administrators.

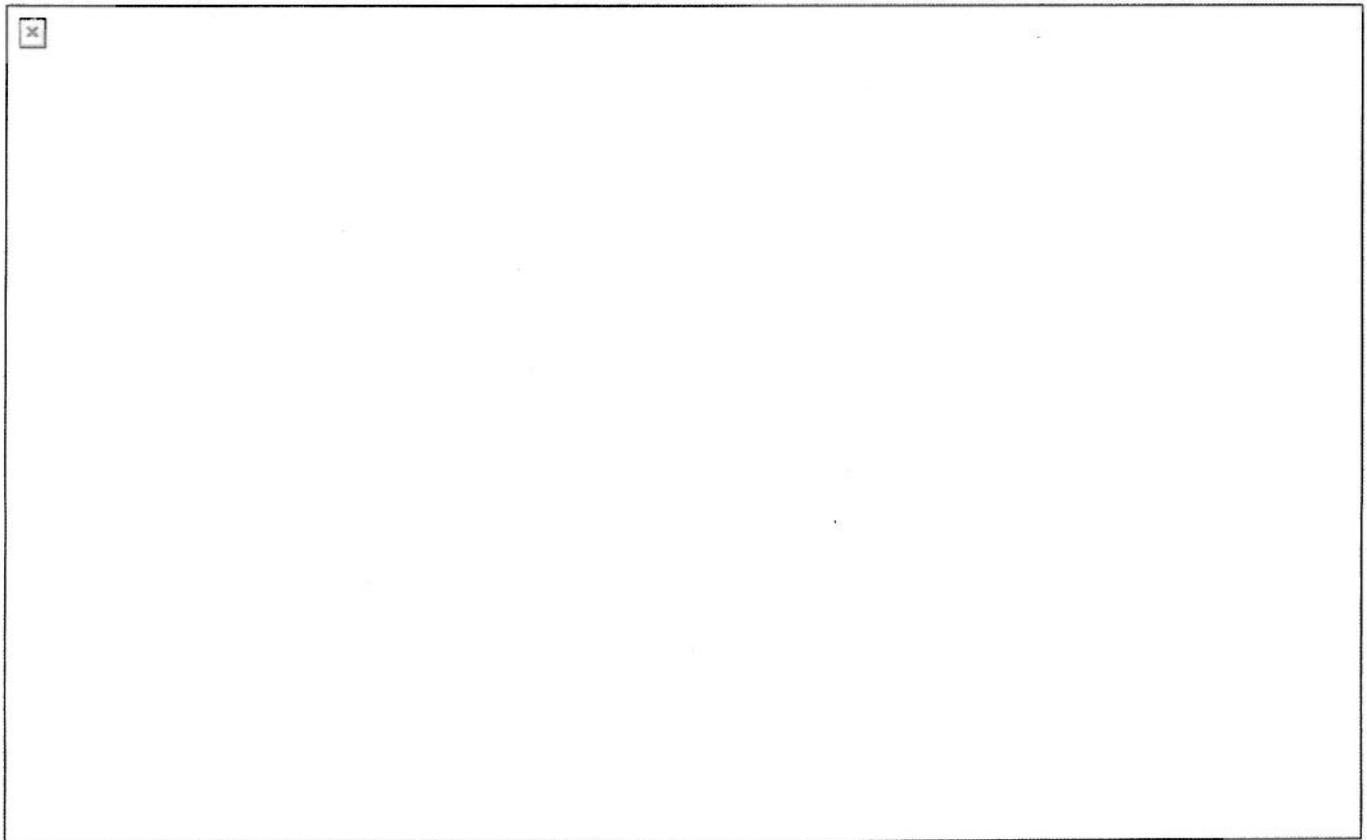


Sincerely yours,

Randy Hill  
Acting Director  
Office of Wastewater Management  
U.S. EPA (4201M)  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
(202) 564-0748  
(202) 501-2338 (FAX)  
hill.randy@epa.gov

---

Confidential: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this message has been received by you in error, you are instructed to delete this message from your machine and all storage media whether electronic or hard copy.



\*\*\*\*\* ATTACHMENT NOT DELIVERED \*\*\*\*\*

This Email message contained an attachment named  
image001.jpg

which may be a computer program. This attached computer program could contain a computer virus which could cause harm to EPA's computers, network, and data. The attachment has been deleted.

This was done to limit the distribution of computer viruses introduced into the EPA network. EPA is deleting all computer program attachments sent from the Internet into the agency via Email.

If the message sender is known and the attachment was legitimate, you should contact the sender and request that they rename the file name extension and resend the Email with the renamed attachment. After

receiving the revised Email, containing the renamed attachment, you can rename the file extension to its correct name.

For further information, please contact the EPA Call Center at (866) 411-4EPA (4372). The TDD number is (866) 489-4900.

\*\*\*\*\* ATTACHMENT NOT DELIVERED \*\*\*\*\*

## Mitschele, Becky

---

**From:** Hulcher, Richard [RFH@adem.state.al.us]  
**Sent:** Tuesday, February 26, 2013 10:56 AM  
**To:** Hill, Randy  
**Cc:** Mitschele, Becky  
**Subject:** FW: EPA received FOIA request for all records related to the CAFO data collection effort and the withdrawal of the CAFO Reporting Rule

**Importance:** High

Randy,

Can you give me an update. Has EPA prepared or distributed a press release about this? If so can you email me a copy?

Estimate on when the info/data will be posted online (see screen-shot below)?

Please advise soonest. We are getting a lot of inquiries. Thanks

Richard Hulcher  
Office of Field Services  
Field Operations Division  
Alabama Department of Environmental Management (ADEM)  
334-394-4311 Fax: 334-394-4326  
[rfh@adem.state.al.us](mailto:rfh@adem.state.al.us) [www.adem.state.al.us](http://www.adem.state.al.us)  
PO Box 301463, Montgomery, AL 36130-1463  
1350 Coliseum Boulevard, Montgomery, AL 36110-2059

---

**From:** Hill.Randy@epamail.epa.gov [mailto:Hill.Randy@epamail.epa.gov]  
**Sent:** Friday, February 08, 2013 4:42 PM  
**To:** Hulcher, Richard; rp4@azdeq.gov; SHAFII@adeq.state.ar.us; phyllis.woodford@state.co.us; brian.churchill@state.de.us; allen.hubbard@dep.state.fl.us; tom.hopkins@dnr.state.ga.us; Sanjay.Sofat@Illinois.gov; DLASITER@idem.IN.gov; Gene.Tinker@dnr.iowa.gov; Tmedley@kdheks.gov; jory.becker@ky.gov; Mitch.Mitchell@LA.GOV; Kimberly.Corts@LA.GOV; Bill.J.Sheehan@maine.gov; mark.hedrich@maine.gov; halhija@mde.state.md.us; gkelman@mde.state.md.us; bitondom@michigan.gov; lisa.scheirer@state.mn.us; Tracy\_Tomkins@deq.state.ms.us; Melanie\_Morris@deq.state.ms.us; darrick.steen@dnr.mo.gov; JChambers@mt.gov; dennis.heitmann@nebraska.gov; CLAWSON@ndep.nv.gov; drashlin@gw.dec.state.ny.us; keith.larick@ncdenr.gov; krockema@nd.gov; Cathy.Alexander@epa.state.oh.us; jon.bernstein@epa.state.oh.us; cdevore@oda.state.or.us; staglang@pa.gov; chapliwp@dhec.sc.gov; Kent.Woodmansey@state.sd.us; Erin.O'Brien@tn.gov; saya.qualls@tn.gov; janet.wyman@tceq.texas.gov; dghall@utah.gov; evanvleet@utah.gov; Marli.Rupe@state.vt.us; bkbowles@deq.virginia.gov; joje461@ECY.WA.GOV; NMena@agr.wa.gov; Amy.Callis@wisconsin.gov; Thomas.Bauman@Wisconsin.gov; bill.dirienzo@wyo.gov  
**Cc:** Perkins.Stephen@epamail.epa.gov; Matthews.Joan@epamail.epa.gov; Capacasa.Jon@epamail.epa.gov; Giattina.Jim@epamail.epa.gov; Hyde.Tinka@epamail.epa.gov; Honker.William@epamail.epa.gov; Flournoy.Karen@epamail.epa.gov; Garcia.Bert@epamail.epa.gov; Hoskie.Sadie@epamail.epa.gov; Kemmerer.John@epamail.epa.gov; Opalski.Dan@epamail.epa.gov; Coats.Andrea@epamail.epa.gov; Frawley.Austine@epamail.epa.gov; Zolandz.Mark@epamail.epa.gov; Zieba.Kyle@epamail.epa.gov; Toy.Ashley@epamail.epa.gov; Sampath.Sam@epamail.epa.gov; Socha.Julianne@epamail.epa.gov; Juarez.Paul@epamail.epa.gov; Stine.Scott@epamail.epa.gov; Porter.Donna@epamail.epa.gov; Clark.Amy@epamail.epa.gov; Draper.Seth@epamail.epa.gov; Whitson.Amelia@epamail.epa.gov; Peak.Nicholas@epamail.epa.gov; Nagle.Deborah@epamail.epa.gov; Wiedeman.Allison@epamail.epa.gov; Mitschele.Becky@epamail.epa.gov; Yager.Scott@epamail.epa.gov; Alexandra.Dunn; srolland@acwa-us.org; Stoner.Nancy@epamail.epa.gov; Gilinsky.Ellen@epamail.epa.gov  
**Subject:** EPA received FOIA request for all records related to the CAFO data collection effort and the withdrawal of the CAFO Reporting Rule



Dear State NPDES Permitting Manager,

I wanted to make you aware of two separate Freedom of Information Act (FOIA) requests to EPA, both of which asked for all records relating to EPA's effort to collect CAFO data. One was from EarthJustice and the other was submitted by the Natural Resources Defense Council and Pew Charitable Trust. As indicated during our state conference calls, state information shared with EPA is subject to FOIA requirements.

Working with our Office of General Counsel, we determined what records we were legally required to provide, and these records included information provided to EPA from states. On Monday, EPA sent the requesters a CD with responsive and releasable documents that included the information states have provided regarding the data collection effort. We have provided the data in the format provided by the state. We did not share any state data that EPA has processed (i.e. removing duplicates, converting coordinate systems, etc.).

Along with other federal agencies, EPA now manages FOIA requests through FOIAonline. FOIAonline is a public website that tracks and stores information responsive to a request. It's the Agency's policy to upload records to FOIAonline. While publically available, a user would need to search through all FOIA requests to EPA with a keyword or have the ID number for the FOIA to review the responsive and releasable documents. Once EPA closes out the FOIA request in the next few weeks, the information we provided under these FOIAs will be available at:

<https://foiaonline.regulations.gov/foia/action/public/view/request?objectId=090004d28001613d>

We will be reaching out to our agricultural stakeholders, so would appreciate if you would wait until Monday afternoon before you reach out to your own stakeholders.

If you have additional questions, you can contact Allison Wiedeman, Rural Branch Chief, either at [wiedeman.allison@epa.gov](mailto:wiedeman.allison@epa.gov) or (202) 564-3105, or call Becky Mitschele, of my staff, at either (202) 564-6418 or [mitschele.becky@epa.gov](mailto:mitschele.becky@epa.gov). We also can discuss these FOIAs during the Rural Branch workgroup call hosted by the Association of Clean Water Administrators.

Sincerely yours,

Randy Hill  
Acting Director  
Office of Wastewater Management  
U.S. EPA (4201M)  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
(202) 564-0748  
(202) 501-2338 (FAX)  
[hill.randy@epa.gov](mailto:hill.randy@epa.gov)

---

Confidential: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this message has been received by you in error, you are instructed to delete this message from your machine and all storage media whether electronic or hard copy.



https://online.regulations.gov/... FOIA - Freedom of Information Act

FOIA

Home Search Request

Search FOIA requests...

Request Details

Tracking Number: 2012-0012-0012

Submitted Evaluation Assigned Processing Closed

**Request Information**

Full Name: J. P. Smith, Jr.  
Organization: National Religious Freedom Council  
Request Type: Request

**Phase Information**

Estimated Date of Completion: December 28, 2012  
Final Disposition: Undetermined

**Description:**

The description of this request is under Agency review.

**Released Records:**

No records have been released.

Help Desk (202) 456-5000 / M-F 9:00 AM - 5:00 PM / Toll-free: 1-800-456-5000 / Email: FOIA@EEOIC.gov / Privacy and Security Notice / Accessibility Statement

3:55 AM 3/26/2013

## **Mitschele, Becky**

---

**From:** Julie Janovsky [jjanovsky@pewtrusts.org]  
**Sent:** Tuesday, February 19, 2013 1:21 PM  
**To:** Mitschele, Becky; jdevine@nrdc.org; calthouse@nrdc.org; Karen Steuer; Seth Horstmeyer  
**Cc:** Kupchan, Simma; WIEDEMAN, ALLISON; Yager, Scott; Utting, George  
**Subject:** RE: Final Response - Emails - CAFO FOIA

Hi Becky,

A few additional days is ok with Pew and NRDC.

Thanks Becky,

Julie

---

**From:** Mitschele, Becky [<mailto:Mitschele.Becky@epa.gov>]  
**Sent:** Tuesday, February 19, 2013 1:10 PM  
**To:** Julie Janovsky; jdevine@nrdc.org; calthouse@nrdc.org; Karen Steuer  
**Cc:** Kupchan, Simma; WIEDEMAN, ALLISON; Yager, Scott; Utting, George  
**Subject:** Final Response - Emails - CAFO FOIA

Hello Jon and Karen,

May I please have more time (two days) to send you the responsive emails? We transition over the weekend to a new email system and new workplace and is taking a lot of time.

Can I please mail out the CD with the respective emails on Thursday or I can even offer to hand deliver them to the DC offices if that helps to avoid mailing time delays.

Please let me know as soon as possible if this would be OK?

Thanks,

Becky Mitschele  
Physical Scientist  
US EPA, Office of Wastewater Management  
202-564-6418

## Mitschele, Becky

---

**From:** Karen Steuer [ksteuer@pewtrusts.org]  
**Sent:** Thursday, January 31, 2013 5:07 PM  
**To:** Mitschele, Becky  
**Subject:** RE: Partial Denial Letter - FOIA Interim Response #2 - All Responsive Documents Except Email Records

Thank you Becky.

### **Karen Steuer**

Director, Government Relations  
Pew Environment Group  
901 E Street NW, Washington D.C.  
(202) 887-8818  
[ksteuer@pewtrusts.org](mailto:ksteuer@pewtrusts.org)

---

**From:** [Mitschele.Becky@epamail.epa.gov](mailto:Mitschele.Becky@epamail.epa.gov) [<mailto:Mitschele.Becky@epamail.epa.gov>]  
**Sent:** Thursday, January 31, 2013 4:57 PM  
**To:** Julie Janovsky; [jdevine@nrdc.org](mailto:jdevine@nrdc.org); [calthouse@nrdc.org](mailto:calthouse@nrdc.org); Karen Steuer  
**Cc:** [Yager.Scott@epamail.epa.gov](mailto:Yager.Scott@epamail.epa.gov); [Kupchan.Simma@epamail.epa.gov](mailto:Kupchan.Simma@epamail.epa.gov); [Utting.George@epamail.epa.gov](mailto:Utting.George@epamail.epa.gov)  
**Subject:** Partial Denial Letter - FOIA Interim Response #2 - All Responsive Documents Except Email Records

Please find attached a letter in response to your FOIA Request as well as a list of documents withheld. You will be getting a CD with electronic records of all releasable documents, and I will be uploading these documents into FOIAonline. We have mailed the CD and the attached letter to both NRDC and Pew.

We are working on compiling the email records per our previous email exchanges. Thank you again for working with us as we transmit all responsive email records to you in a few weeks. If you have any questions, please feel free to call.

*(See attached file: Partial Denial Letter to NRDC\_PEW.pdf)*

*(See attached file: Spreadsheet with the documents withheld.xlsx)*

Thanks,  
Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418



## Mitschele, Becky

---

**From:** Taglang, Steven W [staglang@pa.gov]  
**Sent:** Thursday, February 21, 2013 4:57 PM  
**To:** WIEDEMAN, ALLISON  
**Cc:** Hill, Randy; Mitschele, Becky; Rider, Glenn  
**Subject:** RE: EPA releases producer info

Thank you.

If Ms. Mitschele can provide the information on the data released by EPA, it would be quite helpful.

Steven Wm. Taglang | Env. Program Manager Bureau of Conservation & Restoration Department of Environmental Protection Rachel Carson State Office Building  
400 Market Street | Harrisburg, PA 17105-8555  
Phone: (717) 783-7577 | Fax: (717) 787-9549 [www.depweb.state.pa.us](http://www.depweb.state.pa.us)

-----Original Message-----

From: WIEDEMAN, ALLISON [<mailto:Wiedeman.Allison@epa.gov>]  
Sent: Thursday, February 21, 2013 4:38 PM  
To: Taglang, Steven W  
Cc: Hill, Randy; Mitschele, Becky; Rider, Glenn  
Subject: RE: EPA releases producer info

Dear Steven:

We received data from the states in your region. We worked with Region 3 to obtain this information. Becky Mitschele of my staff can tell you who in region 3 she worked with and the state contacts.

-----Original Message-----

From: Taglang, Steven W [<mailto:staglang@pa.gov>]  
Sent: Thursday, February 21, 2013 4:11 PM  
To: WIEDEMAN, ALLISON  
Cc: Hill, Randy; Mitschele, Becky; Rider, Glenn  
Subject: FW: EPA releases producer info

Ms. Wiedeman --

Can you tell me where to locate the information EPA provided as noted in this press release/article.

Randy Hill e-mail me on Feb 8th and indicated that this link -

<https://foiaonline.regulations.gov/foia/action/public/view/request?objectId=090004d28001613d>  
- would provide this information. I cannot find this data at this link.

I am certain we provided CAFO data to EPA, as required by our 106 grant. I would like to know what was released so that I have the ability to answer the question posed by an e-mail from PA legislative staff.

Steven Wm. Taglang | Env. Program Manager Bureau of Conservation & Restoration Department of Environmental Protection Rachel Carson State Office Building  
400 Market Street | Harrisburg, PA 17105-8555  
Phone: (717) 783-7577 | Fax: (717) 787-9549 [www.depweb.state.pa.us](http://www.depweb.state.pa.us)

-----Original Message-----

Sent: Thursday, February 21, 2013 3:02 PM  
Subject: EPA releases producer info

Did DEP or PDA provide information to EPA that could have been part of what was given to animal rights groups?

<http://farmfutures.com/story-epa-releases-producer-information-animal-rights-groups-17-95162>

Sent from my iPhone

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this information in error, please contact the sender and delete the message and material from all computers.

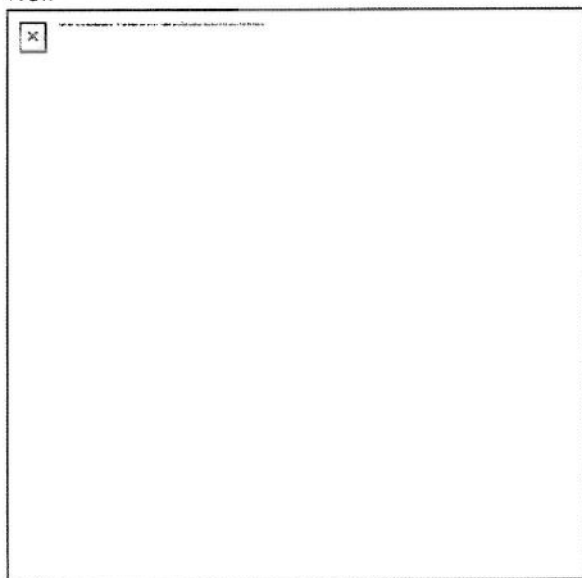
## Mitschele, Becky

---

**Subject:** Canceled: Discuss AFO data subject to FOIA  
**Location:** conference call 804-698-4504  
  
**Start:** Wed 3/6/2013 10:00 AM  
**End:** Wed 3/6/2013 11:00 AM  
**Show Time As:** Free  
  
**Recurrence:** (none)  
  
**Meeting Status:** Not yet responded  
  
**Organizer:** Zahradka, Neil (DEQ)  
  
**Importance:** High

We'll hold off on a conference call for now, as the main questions have already been answered. We'll call Mark or Beck y if we have any more questions.

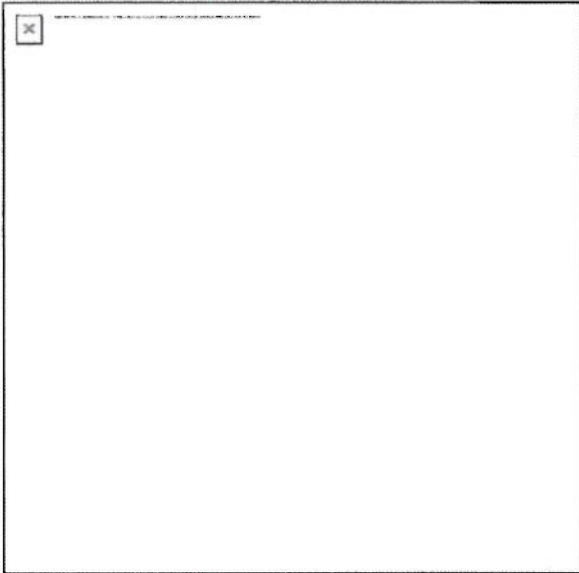
Neil



I rescheduled based on Mark's phone message indicating some other EPA staff would need to be included in the call. Other dates the week of March 4 are available, with the exception of 3/5:PM and 3/6:PM.

Neil





I would like to touch base to make sure we are all on the same page with respect to:

1. What data DEQ submits to EPA
2. Availability through FOIA
3. Notification of FOIA requests received by EPA or DEQ

Thanks,  
Neil

## Mitschele, Becky

---

**From:** Zahradka, Neil (DEQ) [Neil.Zahradka@deq.virginia.gov]  
**Sent:** Thursday, February 21, 2013 4:14 PM  
**To:** Zolandz, Mark  
**Cc:** Bowles, Betsy (DEQ); Mitschele, Becky  
**Subject:** RE: ARTICLES: EPA Releases Confidential Farm Data

Thanks Mark. I just sent a meeting request for next Thursday. In the short term, I would like to verify what Virginia data (if any) was included in the information released so that we can respond to those questions when they arise here.

Neil

---

**From:** Zolandz, Mark [mailto:Zolandz.Mark@epa.gov]  
**Sent:** Thursday, February 21, 2013 4:02 PM  
**To:** Zahradka, Neil (DEQ)  
**Cc:** Bowles, Betsy (DEQ); Mitschele, Becky  
**Subject:** RE: ARTICLES: EPA Releases Confidential Farm Data

Neil,

We can certainly discuss. The data was collected and maintained by EPA HQ, so I will try to set up a call with Becky Mitschele in EPA HQ who can better answer your questions.

Are you (and Betsy if she's interested) available next Thursday? That looks like the earliest time that Becky and I are both available together. If so, let me know what time works best for the two of you.

Thanks,

Mark Zolandz  
U.S. Environmental Protection Agency, Region III  
NPDES Enforcement Branch, Water Protection Division  
1650 Arch Street (3WP42)  
Philadelphia, PA 19103-2029  
Tel: 215-814-2319  
Fax: 215-814-2318

---

**From:** Zahradka, Neil (DEQ) [mailto:Neil.Zahradka@deq.virginia.gov]  
**Sent:** Thursday, February 21, 2013 3:49 PM  
**To:** Zolandz, Mark  
**Subject:** FW: ARTICLES: EPA Releases Confidential Farm Data

Mark, could we discuss?

---

**From:** Rolland, Sean [mailto:srolland@acwa-us.org]  
**Sent:** Thursday, February 21, 2013 11:45 AM  
**To:** Zahradka, Neil (DEQ)  
**Subject:** ARTICLES: EPA Releases Confidential Farm Data

To: Permitting & Compliance Committee, Rural Branch Workgroup

# EPA Releases Confidential Farm Data

**WASHINGTON, D.C., Feb. 20, 2013** – The National Pork Producers Council is extremely troubled by the U.S. Environmental Protection Agency's release earlier this month to several activist groups of personal information on U.S. hog farmers and on other livestock and poultry farmers and, possibly, business-confidential data on their farms.

EPA in early February released raw data from farms in 30 states, including, in some instances, farmers' home addresses, phone numbers and e-mail addresses as well as information on employees of operations, to the Natural Resources Defense Council (NRDC), Earth Justice and the Pew Charitable Trusts under Freedom of Information Act requests the groups filed.

"The release of data containing personal and confidential information is extremely troubling; we feel betrayed," said NPPC President R.C. Hunt, a hog farmer from Wilson, N.C. "We are very concerned for farmers and with the ability of those opposed to modern livestock and poultry farms to manipulate that data to advance their extremist agenda."

EPA gathered the information despite being forced last year to drop a proposed reporting rule for Concentrated Animal Feeding Operations (CAFOs) because of concerns about the privacy and biosecurity of family farms. The regulation was the result of a 2010 "sweetheart" deal the agency entered with environmental groups, including NRDC. The deal was struck while EPA and livestock and poultry producers were in the middle of a lawsuit brought by NPPC over EPA's 2008 CAFO rule, which required large livestock and poultry operations that *propose to* or that *might* discharge into waterways to obtain Clean Water Act (CWA) permits. A federal appeals court ruled that the CWA requires permits only for farms that actually discharge.

In dropping the reporting rule, EPA indicated it still wanted to collect data on CAFOs to "more effectively carry out its CAFO permitting programs on a national level and ensure that CAFOs are implementing practices to protect water quality and human health." But the agency gathered the data from state water agencies without informing them about its intention to share the information with outside groups, including through a searchable national database. NPPC is reviewing the files that EPA released to better understand the scope and content of the data.

"What's ironic," Hunt said, "is that, in the name of transparency, EPA released information in secret and violated the privacy rights of farmers across the country."

###

*NPPC is the global voice for the U.S. pork industry, protecting the livelihoods of America's 67,000 pork producers, who abide by ethical principles in caring for their animals, in protecting the environment and public health and in providing safe, wholesome, nutritious pork products to consumers worldwide. For more information, visit [www.nppc.org](http://www.nppc.org).*

## NCBA: Latest

### EPA move 'mind-boggling'

By [Ken Anderson](#)

The National Cattlemen's Beef Association (NCBA) is blasting the federal Environmental Protection Agency (EPA) for releasing detailed information on Concentrated Animal Feeding Operations (CAFOs) to activist groups.

According to NCBA, the information was requested by the groups—including the Pew Charitable Trust, Earth Justice and the Natural Resources Defense Council—through the Freedom of Information Act. The immediate past president of NCBA, J.D. Alexander, says the fact that EPA granted the request is, in his words, "mind-boggling".

"This action by the EPA is actually almost unbelievable," Alexander says. "I just can't comprehend their irresponsibility in releasing this information to known ag opposition groups that could pose some very terroristic attacks on our industry."



In addition to bio-security concerns, Alexander says the release of information makes it much easier for activists to harass farm and ranch families.

"You know, beef producers are usually pretty private people," he says, "and one of the big things that is of concern is when—I'll use myself as an example—my name, my address, pertinent things about my private business are out there for known terrorist groups to have access to."

Alexander points to an incident that took place in California in January of 2012, when an activist group called the Animal Liberation Front used arson to destroy 14 trucks at California's largest feed yard, Harris Ranch Feedlot of Coalinga.

NCBA says the information released by EPA cover CAFOs in more than 30 states.



**Fw: Meeting requested to discuss 12/20 letter in response to CAFO FOIA**

Becky Mitschele to: cjames

01/07/2013 09:51 AM

Cc: "Devine, Jon", Karen Steuer, "Althouse, Claire"

From: Becky Mitschele/DC/USEPA/US

To: cjames@nrdc.org

Cc: "Devine, Jon" <jdevine@nrdc.org>, Karen Steuer <ksteuer@pewtrusts.org>, "Althouse, Claire" <calthouse@nrdc.org>

Hi Carol,

Thanks for helping me out with setting something up with Jon and Claire at NRDC to discuss the 12/20 letter in response to the CAFO FOIA.

I previously heard back from Karen with options, but I don't think that NRDC could meet this afternoon so let's try to set something up a bit later in the month. Deborah is open the following times:

1/8 from 5 to 6 pm EST

1/10 from 5 pm to 6 pm EST

1/22 from 10 am to 11 am; 2 to 3 pm, or anywhere from 4 to 6 pm.

Could you give me some options so that I can make sure that Karen is available as well since she was not on the first call?

We would like an hour; however, because there are multiple people's schedules, if we have only a 30 min block, we can still have a productive but short call.

Thanks for your help!

Thanks,  
Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418

----- Forwarded by Becky Mitschele/DC/USEPA/US on 01/07/2013 09:44 AM -----

From: Becky Mitschele/DC/USEPA/US

To: Karen Steuer <ksteuer@pewtrusts.org>

Cc: "Devine, Jon" <jdevine@nrdc.org>

Date: 12/31/2012 10:08 AM

Subject: RE: Meeting requested to discuss 12/20 letter in response to CAFO FOIA

Thanks, Karen!

I don't think Jon is in until the 2nd so I will check with him then to see if one of those times also works for him.

Happy New Year!

Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418

Karen Steuer

Hi Becky, Thanks for getting back to us so quickl...

12/31/2012 10:01:12 AM



**EPA released data related to FOIA request for all CAFO information collected by EPA from states**

adamsona, ajsiegel, alyon, bknight, BSmith,  
Ellen Gilinsky to: cgarrison, citlewestrick, cmurray, coffey.adrian, 02/11/2013 05:34 PM  
CECullman, danielleg, dbrooks, dcrow,  
Sent by: Crystal Penman  
Cc: Ann.Mills, Nancy Stoner, Allison Wiedeman, Deborah Nagle,  
Becky Mitschele, Randy Hill

From: Ellen Gilinsky/DC/USEPA/US  
To: adamsona@nppc.org, ajsiegel@hhlaw.com, alyon@beef.org, bknight@stratconserve.com,  
BSmith@UnitedFresh.org, cgarrison@thegarrisongroupplc.com, citlewestrick@msn.com,  
cmurray@nafoalliance.org, coffey.adrian@gmail.com, CECullman@dow.com,  
Cc: Ann.Mills@osec.usda.gov, Nancy Stoner/DC/USEPA/US@EPA, Allison  
Wiedeman/DC/USEPA/US@EPA, Deborah Nagle/DC/USEPA/US@EPA, Becky  
Mitschele/DC/USEPA/US@EPA, Randy Hill/DC/USEPA/US@EPA  
Sent by: Crystal Penman/DC/USEPA/US

Dear Agriculture Stakeholders,

EPA has made a commitment to you to be open and transparent in our work with the agriculture community. Therefore, I wanted to make you aware of two separate Freedom of Information Act (FOIA) requests to EPA, both of which asked for all records relating to EPA's effort to collect CAFO data. One was from EarthJustice and the other was from the Natural Resources Defense Council and Pew Charitable Trust.

You may recall that in July 2012, EPA withdrew a proposed rule that would have required CAFOs to submit information to EPA. The Agency indicated it would use existing federal, state and local sources of information instead of a regulation to gather data about CAFOs. Over the last six months, EPA has been working with states to **gather** the following information about CAFOs: facility contact information, production area location, permit status, the number and type of animals, and the number of acres available for land application of manure, litter and wastewater.

EPA has been gathering publicly accessible information from States, which is subject to FOIA requirements. EPA made clear to all states that provided us with information that the publicly accessible data they submitted would be required by law to be released to FOIA requestors.

Based on our obligations under FOIA, last week EPA sent the requesters a CD with responsive and releasable documents that included the information states have provided regarding the data collection effort. EPA did not alter the information states submitted in any way before releasing it to the requestors. Along with other federal agencies, EPA now manages FOIA requests through FOIAonline. FOIAonline is a public website that tracks and stores information responsive to a request. It's the Agency's policy to upload records to FOIAonline. While publically available, a user would need to search through all FOIA requests to EPA with a keyword or have the ID number for the FOIA to review the responsive and releasable documents. Once EPA closes out the FOIA request in the next few weeks, the information we provided under these FOIAs will be available at:



<https://foiaonline.regulations.gov/foia/action/public/view/request?objectId=090004d28001613d>

I have been reaching out to you and your colleagues as soon as I became aware of this situation and we will be setting up a meeting at EPA with call in number in the next week to ten days to answer questions you may have. In the meantime you can contact Allison Wiedeman, Rural Branch Chief, either at [wiedeman.allison@epa.gov](mailto:wiedeman.allison@epa.gov) or (202) 564-0901. I am of course available at [gilinsky.ellen@epa.gov](mailto:gilinsky.ellen@epa.gov) or 202 564 2549.

**Ellen Gilinsky, Ph.D.**  
**Senior Policy Advisor**  
**Office of Water**

**US Environmental Protection Agency**  
**Room 3111 East**  
**Telephone: (202) 564-2549**  
**Cell : (202) 236-6882**  
**Email: [Gilinsky.Ellen@epa.gov](mailto:Gilinsky.Ellen@epa.gov)**

**Mailing Address: 1200 Pennsylvania Avenue, NW, Mail Code 4101M, Washington, DC 20460-0001**  
**Physical/FedEx/Courier Address: 1201 Constitution Ave., NW, Rm. 3111 East Bldg., Washington, DC 20004-3302**



**EPA released data related to FOIA request for all CAFO information collected by EPA from states**

Ellen Gilinsky to: crichter, jthorne, tom.hebert, thomascrigler4, formicam, amcdonald

02/11/2013 04:44 PM

Sent by: Crystal Penman

Cc: ann.mills, Nancy Stoner, Allison Wiedeman, Deborah Nagle, Becky Mitschele, Randy Hill

From: Ellen Gilinsky/DC/USEPA/US  
To: crichter@thepolicygroup.com, jthorne@lawbc.com, tom.hebert@bayardridge.com, thomascrigler4@gmail.com, formicam@nppc.org, amcdonald@beef.org, donp@fb.org  
Cc: ann.mills@osec.usda.gov, Nancy Stoner/DC/USEPA/US@EPA, Allison Wiedeman/DC/USEPA/US@EPA, Deborah Nagle/DC/USEPA/US@EPA, Becky Mitschele/DC/USEPA/US@EPA, Randy Hill/DC/USEPA/US@EPA  
Sent by: Crystal Penman/DC/USEPA/US

Dear Agriculture Stakeholders,

EPA has made a commitment to you to be open and transparent in our work with the agriculture community. Therefore, I wanted to make you aware of two separate Freedom of Information Act (FOIA) requests to EPA, both of which asked for all records relating to EPA's effort to collect CAFO data. One was from EarthJustice and the other was from the Natural Resources Defense Council and Pew Charitable Trust.

You may recall that in July 2012, EPA withdrew a proposed rule that would have required CAFOs to submit information to EPA. The Agency indicated it would use existing federal, state and local sources of information instead of a regulation to gather data about CAFOs. Over the last six months, EPA has been working with states to gather the following information about CAFOs: facility contact information, production area location, permit status, the number and type of animals, and the number of acres available for land application of manure, litter and wastewater.

EPA has been gathering publicly accessible information from States, which is subject to FOIA requirements. EPA made clear to all states that provided us with information that the publicly accessible data they submitted would be required by law to be released to FOIA requestors.

Based on our obligations under FOIA, last week EPA sent the requesters a CD with responsive and releasable documents that included the information states have provided regarding the data collection effort. EPA did not alter the information states submitted in any way before releasing it to the requestors. Along with other federal agencies, EPA now manages FOIA requests through FOIAonline. FOIAonline is a public website that tracks and stores information responsive to a request. It's the Agency's policy to upload records to FOIAonline. While publically available, a user would need to search through all FOIA requests to EPA with a keyword or have the ID number for the FOIA to review the responsive and releasable documents. Once EPA closes out the FOIA request in the next few weeks, the information we provided under these FOIAs will be available at:

<https://foiaonline.regulations.gov/foia/action/public/view/request?objectId=090004d28001613d>

I have been reaching out to you and your colleagues as soon as I became aware of this situation and we will be setting up a meeting at EPA with call in number in the next week to ten days to answer questions you may have. In the meantime you can contact Allison Wiedeman, Rural Branch Chief, either at [wiedeman.allison@epa.gov](mailto:wiedeman.allison@epa.gov) or (202) 564-0901. I am of course available at [gilinsky.ellen@epa.gov](mailto:gilinsky.ellen@epa.gov) or 202 564 2549.

**Ellen Gilinsky, Ph.D.**  
**Senior Policy Advisor**  
**Office of Water**

**US Environmental Protection Agency**  
**Room 3111 East**  
**Telephone: (202) 564-2549**  
**Cell : (202) 236-6882**  
**Email: [Gilinsky.Ellen@epa.gov](mailto:Gilinsky.Ellen@epa.gov)**

**Mailing Address: 1200 Pennsylvania Avenue, NW, Mail Code 4101M, Washington, DC 20460-0001**  
**Physical/FedEx/Courier Address: 1201 Constitution Ave., NW, Rm. 3111 East Bldg., Washington, DC 20004-3302**





**FOIA - CAFO data**

Becky Mitschele to: jdevine

12/06/2012 09:10 AM

From: Becky Mitschele/DC/USEPA/US  
To: jdevine@nrdc.org

Hi John,

Got your message. There is nothing that you need to do now as far as processing your request. We are transitioning to a new FOIA system (FOIA online) and people are still trying to figure it out.

Sorry for the confusion and look forward to speaking with you, Claire, and Karen on 12/17.

Thx,  
Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418



**FOIA Request regarding Final Action on the proposed CAFO Reporting Rule**

Becky Mitschele to: jdevine, ksteuer

11/29/2012 05:11 PM

Cc: George Utting, Simma Kupchan, Scott Yager, calthouse, cjames

From: Becky Mitschele/DC/USEPA/US  
To: jdevine@nrdc.org, ksteuer@pewtrusts.org  
Cc: George Utting/DC/USEPA/US@EPA, Simma Kupchan/DC/USEPA/US@EPA, Scott Yager/DC/USEPA/US@EPA, calthouse@nrdc.org, cjames@nrdc.org

Hi Jon and Karen,

Your FOIA request was routed to our Office today, 11/29/12. I will be coordinating the response to the FOIA.

As noted in my voicemail, we would like to discuss this request with you expeditiously as possible.

Because of your travel and our scheduling here, according to Carol James, the next available time would be December 17th. I have sent around a scheduler as a placeholder at a time that works for us and Jon.

Karen, would this work for you?

Thanks,  
Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418



**RE: Follow up to FOIA extension response**

Simma Kupchan, Devine, Jon,  
Althouse, Claire to: [jjanovsky@pewtrusts.org](mailto:jjanovsky@pewtrusts.org),  
[ksteuer@pewtrusts.org](mailto:ksteuer@pewtrusts.org)

01/29/2013 01:14 PM

Cc: Becky Mitschele, George Utting, Scott Yager,  
[nkeller@pewtrusts.org](mailto:nkeller@pewtrusts.org)

From: "Althouse, Claire" <[calthouse@nrdc.org](mailto:calthouse@nrdc.org)>

To: Simma Kupchan/DC/USEPA/US@EPA, "Devine, Jon" <[jdevine@nrdc.org](mailto:jdevine@nrdc.org)>, [jjanovsky@pewtrusts.org](mailto:jjanovsky@pewtrusts.org) <[jjanovsky@pewtrusts.org](mailto:jjanovsky@pewtrusts.org)>, [ksteuer@pewtrusts.org](mailto:ksteuer@pewtrusts.org) <[ksteuer@pewtrusts.org](mailto:ksteuer@pewtrusts.org)>

Cc: Becky Mitschele/DC/USEPA/US@EPA, George Utting/DC/USEPA/US@EPA, Scott Yager/DC/USEPA/US@EPA, [nkeller@pewtrusts.org](mailto:nkeller@pewtrusts.org) <[nkeller@pewtrusts.org](mailto:nkeller@pewtrusts.org)>

Ms. Kupchan,

Thank you for your message regarding NRDC and Pew's FOIA request. We look forward to receiving records responsive to our request for data about individual CAFOs at the end of the week.

We have reviewed your note regarding the agency's email records responsive to our request. Without agreeing that any of the responsive records are privileged, we are willing to deem EPA's production of email records to be complete if the following conditions are met:

1. EPA asks its principal staff involved in developing the reporting rule or its withdrawal if they can recall any emails regarding the reporting rule submitted to EPA by: The American Farm Bureau Federation, The National Pork Producers Council, The National Cattlemen's Beef Association, The United Egg Producers, The U.S. Poultry & Egg Association, The National Council of Farmer Cooperatives, The National Milk Producers Federation, The National Chicken Council, the National Turkey Federation, The National Corn Growers Association, or any other agricultural trade association.
2. EPA asks its principal staff involved in developing the reporting rule or its withdrawal if they can recall any emails exchanged with non-governmental organizations or individuals (such as agricultural industry representatives) or state personnel regarding:
  - The completeness, accuracy, or accessibility of state files, or
  - Individual facilities.
3. If there are emails fitting the description in 1 or 2, above, EPA produces any such emails.

We are willing to extend a reasonable period of time for EPA to gather the above email records.

Sincerely,

Karen Steuer



Jon Devine

---

From: Kupchan.Simma@epamail.epa.gov  
[Kupchan.Simma@epamail.epa.gov]  
Sent: Monday, January 28, 2013 3:47 PM  
To: Althouse, Claire; Devine, Jon;  
jjanovsky@pewtrusts.org; ksteuer@pewtrusts.org  
Cc: Mitschele.Becky@epamail.epa.gov;  
Utting.George@epamail.epa.gov;  
Yager.Scott@epamail.epa.gov  
Subject: Follow up to FOIA extension response

Dear Ms. Althouse, Mr. Devine, Ms. Janovsky, and Ms. Steuer,

Thank you for considering our request for an extension to provide the documents responsive to your FOIA request.. In our interim response dated December 18, 2012, we provided you with copies of the documents that respond to items I(1) and (2) in your request, and we will supplement those with all records that respond to item I(3) by this Thursday, Jan. 31, 2013. To be clear, that supplemental response will include all data we received from states related to their CAFO information.

I am writing to address two other types of records that your request seeks - all records related to the withdrawal of the proposed CAFO Reporting Rule and email records related to request I(2). When we spoke on the phone, we focused on the timing of transmission of the information that we view of value, i.e., information about individual CAFOs, that we neglected to focus on these two types of records. We therefore failed to explain the practical difficulties of providing this information by the current deadline. We apologize for this oversight.

We hope find out whether you are seeking any information in this broad introductory paragraph that you would not receive in our responses to the specific items #1,2, and 3 listed below it. All of the releasable documents responsive to this request are already available in the docket -- any other documents are deliberative and possibly attorney client privileged. Nonsubstantive emails or meeting requests may also be responsive to this request and releasable. Substantive emails, aside from those containing materials you have already received, would largely be privileged as deliberative.

We cannot think of any useful information that an index of deliberative documents and a small number of emails would provide to you. This request would, however, require a search of scores of Agency email accounts, including those of senior managers who have retired and staff members who have moved on, and yield tens of thousands of emails that would require review. The overwhelming majority of this burden would fall on our CAFO Reporting Rule staff person, Becky Mitschele, who is also the person conducting

the CAFO information collection with states and compilation project. Based on discussions with other FOIA responders, she currently estimates that rounding up and processing all of these emails would take approximately three weeks of full time effort.

The second category of records that your request seeks, which we have not yet produced and would also consume significant Agency resources, is emails and a log of privileged records relating to factual information concerning the completeness, accuracy, and public accessibility of states' CAFO information in certain specified areas (item I(2)). Fewer people have been involved in discussions on this subject, so providing emails and a privilege log in response to this item would be less burdensome than responding to the introductory paragraph discussed above. Yet providing emails and a log of privileged documents in response to this item would still entail a significant burden.

We wanted to make sure that you felt that the resources these responses would consume here at EPA were warranted. Again, we are not sure how the information we would release, that we have not already released, will benefit you.

We are hopeful that the materials we have provided, and that we intend to provide by the end of the week, will convey all that you think you need to know, and that you might deem our providing of all documents in response to items I(1), (2), and (3) sufficient to satisfy the purpose of your FOIA request. If you do think that emails and a privilege log responsive to the introductory paragraph and item I(2) are still necessary, we respectfully request an extension of three weeks in which to provide you with this information. It would not be possible for us to provide you with this information by the current deadline of January 31, 2013.

I personally apologize for failing to have raised these issues sooner, on our earlier call.

I hope that the fact that you will be receiving what we all believe are the documents most important to you by the end of this week will incline you to acknowledge our practical concerns with the FOIA response.

Thank you for your attention. We would be grateful if you could respond as soon as possible.

Simma A. Kupchan  
Water Law Office  
EPA Office of General Counsel  
Ariel Rios North, Room 7313A  
(202) 564-3105

From: "Althouse, Claire" <calthouse@nrdc.org>

To: Becky Mitschele/DC/USEPA/US@EPA  
Cc: "Devine, Jon" <jdevine@nrdc.org>, Julie Janovsky  
<jjanovsky@pewtrusts.org>, "ksteuer@pewtrusts.org"  
<ksteuer@pewtrusts.org>  
Date: 01/25/2013 11:41 AM  
Subject: FOIA: Pew and NRDC response

---

Dear Ms. Mitschele,

Attached please find Pew and NRDC's response to your  
Jan. 10, 2013, request for additional time to respond  
to our FOIA request.

Sincerely,  
Claire Althouse

--

Claire Althouse  
Policy Analyst • Water Program  
Natural Resources Defense Council  
1314 Second Street  
Santa Monica, CA 90401  
T: (310) 434-2300  
F: (310) 434-2399  
P Please consider the environment before printing  
this email.

(See attached file: PewNRDC Response to request for  
more time 1-25-13.pdf)





**RE: Conference call this afternoon**

Althouse, Claire to: Becky Mitschele

01/22/2013 12:41 PM

Cc: George Utting, "Devine, Jon", "ksteuer@pewtrusts.org", Simma Kupchan, Scott Yager, Julie Janovsky

From: "Althouse, Claire" <calthouse@nrdc.org>  
To: Becky Mitschele/DC/USEPA/US@EPA  
Cc: George Utting/DC/USEPA/US@EPA, "Devine, Jon" <jdevine@nrdc.org>, "ksteuer@pewtrusts.org" <ksteuer@pewtrusts.org>, Simma Kupchan/DC/USEPA/US@EPA, Scott Yager/DC/USEPA/US@EPA, Julie Janovsky <jjanovsky@pewtrusts.org>

Good morning Becky,

Thanks for checking in. We are still considering the request. You can expect a response from us tomorrow.

Best,  
Claire

From: Mitschele.Becky@epamail.epa.gov [mailto:Mitschele.Becky@epamail.epa.gov]  
Sent: Tuesday, January 22, 2013 9:37 AM  
To: Althouse, Claire  
Cc: Utting.George@epamail.epa.gov; Devine, Jon; ksteuer@pewtrusts.org; Kupchan.Simma@epamail.epa.gov; Yager.Scott@epamail.epa.gov  
Subject: Fw: Conference call this afternoon

Claire,

In followup to my vociemail last week, I wanted to inquire about where we left off from the 1/10 conference call where NRDC/Pew met with Deborah Nagle, our Permits Division Director.

Have you given additional consideration to our request for 2 additional months for the information related to state cafo data?

Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418

----- Forwarded by Becky Mitschele/DC/USEPA/US on 01/22/2013 12:33 PM -----

From: Becky Mitschele/DC/USEPA/US  
To: "Althouse, Claire" <calthouse@nrdc.org>  
Date: 01/10/2013 04:49 PM  
Subject: Re: Conference call this afternoon

---

Yes. Thanks for confirming. We will open the conference line at 5:30 pm EST. The call information is 1-866-299-3188 and the code is 202-564-6418.

Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418

▼ "Althouse, Claire" ---01/10/2013 03:46:19 PM---Hello Becky, I just wanted to confirm that we are planning to discuss our FOIA request this afternoon

From: "Althouse, Claire" <calthouse@nrdc.org>  
To: Becky Mitschele/DC/USEPA/US@EPA  
Date: 01/10/2013 03:46 PM  
Subject: Conference call this afternoon


---

Hello Becky,

I just wanted to confirm that we are planning to discuss our FOIA request this afternoon at 5:30 your time. I saw the updated calendar request, so I wanted to make sure we are all on the same page.

Thank you,  
Claire

--  
Claire Althouse  
Policy Analyst • Water Program  
Natural Resources Defense Council  
1314 Second Street  
Santa Monica, CA 90401  
T: (310) 434-2300  
F: (310) 434-2399

 Please consider the environment before printing this email



**Fw: Conference call this afternoon**

Becky Mitschele to: Althouse, Claire

01/22/2013 12:37 PM

Cc: George Utting, jdevine, ksteuer, Simma Kupchan, Scott Yager

From: Becky Mitschele/DC/USEPA/US  
To: "Althouse, Claire" <calthouse@nrdc.org>  
Cc: George Utting/DC/USEPA/US@EPA, jdevine@nrdc.org, ksteuer@pewtrusts.org, Simma Kupchan/DC/USEPA/US@EPA, Scott Yager/DC/USEPA/US@EPA

Claire,

In followup to my vociemail last week, I wanted to inquire about where we left off from the 1/10 conference call where NRDC/Pew met with Deborah Nagle, our Permits Division Director.

Have you given additional consideration to our request for 2 additional months for the information related to state cafo data?

Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418

----- Forwarded by Becky Mitschele/DC/USEPA/US on 01/22/2013 12:33 PM -----

From: Becky Mitschele/DC/USEPA/US  
To: "Althouse, Claire" <calthouse@nrdc.org>  
Date: 01/10/2013 04:49 PM  
Subject: Re: Conference call this afternoon

Yes. Thanks for confirming. We will open the conference line at 5:30 pm EST. The call information is 1-866-299-3188 and the code is 202-564-6418.

Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418

"Althouse, Claire"

Hello Becky, I just wanted to confirm that we are...

01/10/2013 03:46:19 PM

From: "Althouse, Claire" <calthouse@nrdc.org>  
To: Becky Mitschele/DC/USEPA/US@EPA  
Date: 01/10/2013 03:46 PM  
Subject: Conference call this afternoon

Hello Becky,

I just wanted to confirm that we are planning to discuss our FOIA request this afternoon at 5:30 your time. I saw the updated calendar request, so I wanted to make sure we are all on the same page.


Thank you,  
Claire

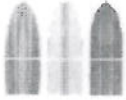
--




**Claire Althouse**

Policy Analyst • Water Program  
Natural Resources Defense Council  
1314 Second Street  
Santa Monica, CA 90401  
T: (310) 434-2300  
F: (310) 434-2399

 Please consider the environment before printing this email



**Re: Conference call this afternoon**   
Becky Mitschele to: Althouse, Claire

01/10/2013 04:49 PM

From: Becky Mitschele/DC/USEPA/US  
To: "Althouse, Claire" <calthouse@nrdc.org>

---

Yes. Thanks for confirming. We will open the conference line at 5:30 pm EST. The call information is 1-866-299-3188 and the code is 202-564-6418.

Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418

"Althouse, Claire" Hello Becky, I just wanted to confirm that we are... 01/10/2013 03:46:19 PM

From: "Althouse, Claire" <calthouse@nrdc.org>  
To: Becky Mitschele/DC/USEPA/US@EPA  
Date: 01/10/2013 03:46 PM  
Subject: Conference call this afternoon

---

Hello Becky,


I just wanted to confirm that we are planning to discuss our FOIA request this afternoon at 5:30 your time. I saw the updated calendar request, so I wanted to make sure we are all on the same page.

Thank you,  
Claire

--

**Claire Althouse**

Policy Analyst • Water Program  
Natural Resources Defense Council  
1314 Second Street  
Santa Monica, CA 90401  
T: (310) 434-2300  
F: (310) 434-2399

 Please consider the environment before printing this email



**Conference call this afternoon**

Althouse, Claire to: Becky Mitschele

01/10/2013 03:46 PM

From: "Althouse, Claire" <calthouse@nrdc.org>

To: Becky Mitschele/DC/USEPA/US@EPA

History: This message has been replied to and forwarded.

---


Hello Becky,

I just wanted to confirm that we are planning to discuss our FOIA request this afternoon at 5:30 your time. I saw the updated calendar request, so I wanted to make sure we are all on the same page.

Thank you,  
Claire

--

Claire Althouse  
Policy Analyst • Water Program  
Natural Resources Defense Council  
1314 Second Street  
Santa Monica, CA 90401  
T: (310) 434-2300  
F: (310) 434-2399

 Please consider the environment before printing this email





**FW: Partial Response to FOIA EPA-HQ-2013-001516**

Althouse, Claire to: Becky Mitschele

01/04/2013 04:37 PM

From: "Althouse, Claire" <calthouse@nrdc.org>

To: Becky Mitschele/DC/USEPA/US@EPA

History: This message has been forwarded.

Good afternoon, Becky,

I wanted to make sure you received this email that I sent just prior to the holidays. Please feel free to reach out if you have any questions.

Thank you for the records you have already sent, and for working to compile the remaining records.

Sincerely,  
Claire

From: Althouse, Claire  
Sent: Friday, December 21, 2012 6:36 AM  
To: Mitschele.Becky@epamail.epa.gov  
Cc: Kupchan.Simma@epamail.epa.gov; Yager.Scott@epamail.epa.gov; Utting.George@epamail.epa.gov; Webb.Adelaide@epamail.epa.gov; Jones-Coleman.Diane@epamail.epa.gov; Devine, Jon; jjanovsky@pewtrusts.org; ksteuer@pewtrusts.org  
Subject: RE: Partial Response to FOIA EPA-HQ-2013-001516

Good morning Becky,

Attached, please find Pew and NRDC's response to your request for an extended timeframe to reply to our FOIA request.

Sincerely,  
Claire Althouse

From: Mitschele.Becky@epamail.epa.gov  
[Mitschele.Becky@epamail.epa.gov]  
Sent: Tuesday, December 18, 2012 10:32 AM  
To: jjanovsky@pewtrusts.org; Devine, Jon  
Cc: Althouse, Claire; Kupchan.Simma@epamail.epa.gov; Yager.Scott@epamail.epa.gov; Utting.George@epamail.epa.gov; Webb.Adelaide@epamail.epa.gov; Jones-Coleman.Diane@epamail.epa.gov  
Subject: Partial Response to FOIA EPA-HQ-2013-001516

Hello Jon and Julie,

We have mailed a partial response to the FOIA requesting copies of records related to the withdrawal of the proposed CAFO Reporting Rule.

Please find attached the cover letter that will be enclosed with the CD that we are mailing today. Once you have had a chance to review the documents, we can set up a meeting to discuss next steps. Please let me know what would be a good day and time for you all.

(See attached file: Interim response cover letter to NRDC and Pew.pdf)

Thanks,  
Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418



PewNRDCCAFOFOIA- Response to EPA Request for Additional Time- 12-20-12.pdf



Appendix A- Pew-NRDC CAFO FOIA 10-24-12 copy.pdf



THE  
**PEW**  
CHARITABLE TRUSTS

December 21, 2012

*Via Electronic Mail*

Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
[Mitschele.Becky@epamail.epa.gov](mailto:Mitschele.Becky@epamail.epa.gov)

**Re: Environmental Protection Agency request for additional time to respond to Freedom of Information Act inquiry**

Dear Ms. Mitschele,

NRDC and the Pew Environment Group have reviewed your request to extend the Environmental Protection Agency's (EPA) deadline for responding to our Freedom of Information Act (FOIA) request dated October 24, 2012.<sup>1</sup> We agree to wait until January 31, 2013, to receive a portion of the information we requested.

As you are aware, FOIA sets forth a 20-day timeframe for response;<sup>2</sup> if unusual circumstances exist, EPA may request an extension of 10 working days, or ask the requester to limit the scope of the request.<sup>3</sup> Twenty working days for responding to our request expired on November 21, 2012, at which time we had not heard from EPA regarding our request. The additional 10 days we could have potentially granted had we talked with EPA would have expired December 7, 2012. On December 17, 2012, EPA requested to extend the timeframe for response until January 31, 2013.

We agree to partially grant EPA's request for an extended timeframe for response. We agree to extend the timeframe for response with respect to our third request in the attached letter<sup>4</sup> until January 31, 2013. It is our understanding of this agreement that EPA will use the extended time to prepare the requested information. By January 31, 2013, we expect to receive all records responsive to our request.

---

<sup>1</sup> Appendix A, attached.

<sup>2</sup> 5 U.S.C. § 552(a)(6); 40 C.F.R. 2.104.

<sup>3</sup> Id.

<sup>4</sup> Appendix A, page 3.



We do not agree to extend the timeframe for our first and second requests. We request that EPA immediately provide any records that are responsive to our first and second requests in the attached letter.<sup>5</sup>

Thank you for compiling the requested information for us.

Sincerely,



**Jon P. Devine, Jr.**  
Senior Attorney  
Natural Resources Defense Council  
[jdevine@nrdc.org](mailto:jdevine@nrdc.org)



**Karen Steuer**  
Director of Government Relations,  
Pew Charitable Trusts  
[ksteuer@pewtrusts.org](mailto:ksteuer@pewtrusts.org)

---

<sup>5</sup> Appendix A, page 2.